

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:03CR229-MU**

UNITED STATES OF AMERICA)
)
)
vs.) **ORDER**
)
)
BREON MONTREZ MASSEY,)
)
)
Defendant.)
)
)

THIS MATTER is before the Court on Defendant's Motion to Dismiss the Instant Prosecution based on the Court's Order of May 22, 2006, suppressing certain evidence against Defendant. This motion is, at best, premature. The Court may only dismiss a criminal matter on its own motion for unreasonable delay, not for any perceived insufficiency in evidence at the pre-trial level. Fed. R. Crim. P. 48(b). The Government still has time to appeal the Court's order granting suppression, and to develop further evidence in support of its case. Once the Government has presented its evidence at trial, Defendant may move the Court to determine whether or not that evidence is sufficient to be presented to a jury. As that stage remains distant, this motion is **DENIED**.

IT IS SO ORDERED.

Signed: May 31, 2006



Graham C. Mullen
United States District Judge

